

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Luxama	Team: Team # 7	CCRB Case #: 200611858	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/22/2006 6:30 AM	Location of Incident: § 87(2)(b)	Precinct: 114	18 Mo. SOL 2/22/2008	EO SOL 2/22/2008	
Date/Time CV Reported Fri, 09/01/2006 4:45 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/07/2006 2:42 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Nazario	30152	928852	114 PCT
2. POF Kimberly Washington	01693	928232	114 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Thompson	07993	935842	114 PCT
2. POM Jason Maisano	22856	935232	114 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Nazario	Abuse: PO Michael Nazario entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)
B.POF Kimberly Washington	Abuse: PO Kimberly Washington entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)
C.POF Kimberly Washington	Abuse: PO Kimberly Washington seized § 87(2)(b) s property.	§ 87(2)(b)

Synopsis

On September 1, 2006, § 87(2)(b) filed the following complaint with the Internal Affairs Bureau. On September 7, 2006, § 87(2)(b) also filed this complaint at the Civilian Complaint Review Board. On August 22, 2006, at approximately 6:00 a.m., § 87(2)(b) was washing his clothes in the laundry room inside his apartment building at § 87(2)(b) in Queens. During the course of the morning, he made trips to his apartment and went outside to purchase breakfast. While he was in the building's lobby, he encountered one of his neighbors, § 87(2)(b) § 87(2)(b) § 87(2)(b) walked away and § 87(2)(b) § 87(2)(b) struck him. § 87(2)(b) § 87(2)(b) called the police and reported that he was assaulted. At approximately 6:30 a.m., PO Michael Thompson, PO Michael Nazario, and PO Kimberly Washington responded to the call. PO Washington told § 87(2)(b) that based on the statement taken from the security guard in the lobby, and the footage from the video, he would have to be arrested. § 87(2)(b) § 87(2)(b) had a cut on her lip. PO Thompson handcuffed § 87(2)(b) while another officer told him that they [the officers] would have to enter his apartment to turn off his television. The officers proceeded to enter the apartment (Allegation A & B). § 87(2)(b) then stated, "Leave the damm thing on. Get the hell out of my apartment." PO Nazario and PO Washington entered the apartment and slammed the door in § 87(2)(b)'s face. PO Washington and PO Nazario opened § 87(2)(b)'s door ten minutes later. From the hallway, § 87(2)(b) observed the officers holding his audio/video remote control in their hands pretending that they were turning off the television. § 87(2)(b) was eventually taken to the 114th Precinct. At the precinct, PO Thompson stated that his partner, PO Kimberly Washington, accidentally took § 87(2)(b)'s digital camera to the precinct (Allegation C). § 87(2)(b) § 87(2)(b) believed that the camera was used to document § 87(2)(b) § 87(2)(b) injuries.

§ 87(2)(b), § 87(2)(g)

The Internal Affairs Bureau also conducted an investigation into this incident. § 87(2)(b) reported the subject officers removed two hundred dollars from his apartment and alleged that his arrest was a result of the officers instructing § 87(2)(b) § 87(2)(b) to injure herself. The Internal Affairs Bureau unsubstantiated the stolen property allegation because there was insufficient evidence to reach a conclusive finding and unfounded the false arrest allegation. IAB determined that the officers had probable cause to arrest § 87(2)(b).

Note: All the subject officers in this complaint were interviewed by the Internal Affairs Bureau which resulted in significant delays in obtaining their GO-15 tapes. It took nine months for all the tapes to arrive.

Summary of Complaint

Initial IAB Complaint (encl. 5a-e)

On September 1, 2006, § 87(2)(b) reported to IAB that he disputed with § 87(2)(b) § 87(2)(b) over money he loaned her which she failed to return. The police responded and escorted § 87(2)(b) § 87(2)(b) to her apartment where the officers told § 87(2)(b) § 87(2)(b) to bite her lip so that § 87(2)(b) could be arrested. § 87(2)(b) had been in the hallway and while he was entering his apartment, the officers followed him inside. The officers looked around his apartment; they removed his digital camera from the apartment in order to photograph § 87(2)(b) injuries. § 87(2)(b), § 87(2)(g)

Formal IAB Interviews (encl. 1a-j)

§ 87(2)(b) was interviewed twice; the dates for these interviews were not provided. In his first interview, § 87(2)(b) testified he was detained in his hallway by PO Thompson while other officers searched his apartment, stole money, and removed his digital camera from a drawer. In his second interview, § 87(2)(b) testified that he asked the officers to lock his apartment door and turn off a television. They were in the apartment for a half hour before emerging with his keys and a digital camera.

On September 25, 2006, § 87(2)(b) was interviewed at the Civilian Complaint Review Board (encl. 7a-c). § 87(2)(b) also filed two complaints regarding this incident with IAB (log numbers 06-28673 and 06-29438). § 87(2)(b), § 87(2)(g)

§ 87(2)(b) in his initial call to CCRB, stated he witnessed two officers use his digital camera to photograph injuries to the person

he allegedly assaulted. § 87(2)(b) claimed he subsequently witnessed the officers download pictures from his camera to a computer at the stationhouse.

On August 22, 2006, at approximately 6:00 a.m., § 87(2)(b) was washing his clothes in the laundry room inside his apartment building at § 87(2)(b) in Queens. During the course of the morning, he made trips to his apartment and went outside to purchase breakfast. While he was in the building's lobby, he encountered one of his neighbors, who was identified through the investigation as § 87(2)(b) § 87(2). Without provocation, § 87(2)(b) approached him with her hands swinging in the air while repeating, "Go ahead, say something." § 87(2)(b) walked away and § 87(2)(b) struck him. § 87(2)(b) called the police and reported that he was assaulted; the assault was recorded on a nearby camera in the building's lobby. At approximately 6:30 a.m., PO Michael Thompson, PO Michael Nazario, and PO Kimberly Washington, who were identified through the investigation, responded to the call. These officers refused to arrest § 87(2)(b) § 87(2)(b) told one of the officers that if they did not document his complaint, he would file a complaint against them. The officers then went to speak to § 87(2)(b) § 87(2)(b) who at that time had returned to her apartment. § 87(2)(b) followed them, but waited in the hallway while the officers spoke to § 87(2)(b) § 87(2)(b) inside her apartment. After speaking to § 87(2)(b) § 87(2)(b) for fifteen minutes, the officers returned saying that § 87(2)(b) § 87(2)(b) had a cut on her lip, but she did not want to press charges. PO Thompson, who § 87(2)(b) § 87(2)(b) was able to identify because he processed his arrest, remained in the hallway with § 87(2)(b) § 87(2)(b) PO Thompson told § 87(2)(b) § 87(2)(b) to leave § 87(2)(b) § 87(2)(b) alone and instructed him not to play his music loud. § 87(2)(b) § 87(2)(b) replied that his music was not loud. § 87(2)(b) § 87(2)(b) believed PO Thompson was attempting to provoke him in order to make an arrest, so § 87(2)(b) § 87(2)(b) went back inside his apartment and slammed the door in PO Thompson's face. § 87(2)(b) § 87(2)(b) returned to the hallway a few minutes later. He stood in the hallway. PO Washington told § 87(2)(b) § 87(2)(b) that based on the statement taken from the security guard in the lobby, and the footage from the video, § 87(2)(b) § 87(2)(b) would have to be arrested. § 87(2)(b) § 87(2)(b) stated that he called for their assistance. PO Thompson handcuffed § 87(2)(b) § 87(2)(b) while another officer told him that they [the officers] would have to enter his apartment to turn off his television. PO Nazario and PO Washington proceeded to enter the apartment. § 87(2)(b) § 87(2)(b) then stated, "Leave the damm thing on. Get the hell out of my apartment." The officers entered the apartment and slammed the door in § 87(2)(b) § 87(2)(b)'s face. § 87(2)(b) § 87(2)(b) attempted to open the door to watch what the officers were doing, but PO Thompson stopped § 87(2)(b) § 87(2)(b) by saying, "You don't need to open the door. They're turning off the T.V." The officers in the apartment opened § 87(2)(b) § 87(2)(b)'s door ten minutes later. From the hallway, § 87(2)(b) § 87(2)(b) observed PO Nazario and PO Washington holding his audio/video remote control in their hands pretending that they were turning off the television. § 87(2)(b) § 87(2)(b) was taken to the 114th Precinct. At the precinct, PO Thompson stated that PO Washington accidentally took § 87(2)(b) § 87(2)(b)'s digital camera to the precinct. § 87(2)(b) § 87(2)(b) responded, "What the hell? You had no permission to go inside my apartment." § 87(2)(b) § 87(2)(b) believed that the camera was used to document § 87(2)(b) § 87(2)(b) injuries. The camera was in his apartment. § 87(2)(b) § 87(2)(b) told PO Thompson that he was arrested in the hallway and challenged what the officers were doing in his apartment. § 87(2)(b) § 87(2)(b) was then processed and taken to Central Booking. § 87(2)(b) § 87(2)(b)

Results of Investigation

Attempts to Contact Witness

On September 29, 2006, the assigned investigator contacted § 87(2)(b) § 87(2)(b) the woman § 87(2)(b) § 87(2)(b) was arrested § 87(2)(b) § 87(2)(b). On August 22, 2006, § 87(2)(b) § 87(2)(b) § 87(2)(b) called the police after § 87(2)(b) § 87(2)(b) punched her in her lip. A male and female officer arrived at § 87(2)(b) § 87(2)(b) home, interviewed her, and took photographic documentation of § 87(2)(b) § 87(2)(b) lip; the officers used a Polaroid camera. § 87(2)(b) § 87(2)(b) did not remember the names of these officers. § 87(2)(b) § 87(2)(b) testified that she was in her apartment while § 87(2)(b) § 87(2)(b) waited in the hallway. § 87(2)(b) § 87(2)(b) did not witness § 87(2)(b) § 87(2)(b)'s interaction with the subject officers, and stated that she did not hear § 87(2)(b) § 87(2)(b) shout anything while he was in the hallway and there were no disputes between him and the officers. § 87(2)(b) § 87(2)(b) explained that the apartments in the building consist of studio apartments with very thin walls. § 87(2)(b) § 87(2)(b) stated that § 87(2)(b) § 87(2)(b) is a nuisance in the building; he plays his music loud; he respects no one, and can often be heard shouting at police officers. The police officers on the day in question were very professional.

Officer Identification

At the time of his interview, § 87(2)(b) § 87(2)(b) was only able to provide the name of his arresting officer, PO Thompson. Through roll call and the sprint report, officers at the scene were called for interviews. PO

Thompson, PO Nazario, and PO Washington confirmed their involvement in this incident at the time of their interviews. These officers also identified PO Jason Maisano as being on the scene.

PO Michael Nazario's Statement

Memo Book: no entries involving this incident (encl. 8a-c).

On July 25, 2007, PO Michael Nazario was interviewed at the Civilian Complaint Review Board (encl. 9a-b).

On August 22, 2006, PO Michael Nazario worked a tour of 2315 X 0750 in Sectors A, C, and D, with PO Kimberly Washington. Sector I received an assault complaint at § 87(2)(b). PO Nazario has had numerous assignments at this location; the building is a problematic location so PO Nazario responded to the location as backup. When PO Nazario arrived on the scene, § 87(2)(b) was outside. § 87(2)(b) reported that his female neighbor assaulted him. At this point, PO Maisano had arrived at the scene. PO Nazario, PO Washington, PO Thompson and PO Maisano followed § 87(2)(b) to his neighbor's apartment.

§ 87(2)(b)'s neighbor, identified through the investigation as § 87(2)(b), § 87(2)(b) reported to PO Nazario that § 87(2)(b) had assaulted her. § 87(2)(b) had visible bruises. PO Nazario did not recall the location of the bruises. § 87(2)(b) reported that she wanted § 87(2)(b) arrested. After PO Nazario observed that § 87(2)(b) did not have visible injuries, he decided that § 87(2)(b) would be arrested. § 87(2)(b) had been in the hallway. § 87(2)(b) was handcuffed. PO Nazario stated that § 87(2)(b)'s apartment door had been open, his television was on very loud, and his lights had been turned on. § 87(2)(b) asked the officers if they could turn off his television. § 87(2)(b) did not protest to any of the officers entering his apartment. PO Nazario remained in the doorway while PO Washington entered the apartment and turned off the television. § 87(2)(b) was standing directly in front of his door with PO Maisano and PO Thompson. § 87(2)(b)'s television was approximately four feet from the doorway. PO Washington was not in the apartment for long; immediately after she turned off the television and lights, she walked out. There were no additional officers inside the apartment. PO Washington did not search the apartment. PO Nazario had complete view of PO Washington while she was inside the apartment. PO Nazario did not recall § 87(2)(b) protesting what PO Washington was doing inside. Nothing was removed from § 87(2)(b)'s apartment. After the lights and television were turned off, PO Nazario locked § 87(2)(b)'s door. PO Nazario did not recall how he came to have § 87(2)(b)'s apartment keys. PO Nazario reiterated that PO Washington would not have entered the apartment if § 87(2)(b) had not requested it. PO Thompson took photographs of the female victim's injuries. PO Nazario believed that PO Thompson used the precinct's Polaroid camera. PO Nazario believed that an officer went to the precinct to obtain the Polaroid. PO Nazario does not recall who retrieved the Polaroid.

PO Nazario did not know if any of the officers accidentally took § 87(2)(b)'s digital camera to the precinct. PO Thompson transported § 87(2)(b) to the precinct. PO Nazario did not return to the precinct with § 87(2)(b).

PO Michael Thompson's Statement

Arrest Report & Criminal Court Complaint (encl. 11a-c, 12a-b)

On August 22, 2006, § 87(2)(b) was arrested at § 87(2)(b), § 87(2)(b) in Queens. § 87(2)(b) was charged § 87(2)(b).

Memo Book: At 0630 hours, 1024 at § 87(2)(b), § 87(2)(b). At 0713 hours, one individual was arrested and transported to the stationhouse (encl. 10a-b).

On July 25, 2007, PO Michael Thompson was interviewed at the Civilian Complaint Review Board (encl. 13a-b).

On August 22, 2006, PO Michael Thompson worked a tour of 2315 X 0750 where he was on routine patrol in Sectors I, M, N, and P. PO Thompson worked with PO Jason Maisano. PO Thompson received a complaint involving an assault at § 87(2)(b), § 87(2)(b) in Queens. When PO Thompson arrived on the scene,

§ 87(2)(b) was waiting outside. § 87(2)(b) complained that a female inside the building, identified through the investigation as § 87(2)(b), hit him; § 87(2)(b) felt that the § 87(2)(b) had to be arrested. § 87(2)(b) did not have visible injuries from the assault. However, he was very agitated. PO Thompson went upstairs. There were additional officers on the scene. PO Thompson did not provide their names. § 87(2)(b) had bruises on her body. § 87(2)(b) stated that she and § 87(2)(b) had an altercation. § 87(2)(b) asked the officers to arrest § 87(2)(b). PO Thompson stated that two Polaroid photos were taken of § 87(2)(b) injuries. He didn't recall who took the photographs.

PO Thompson handcuffed § 87(2)(b) in the hallway. § 87(2)(b)'s apartment was directly next door to § 87(2)(b)'s apartment. § 87(2)(b) had his television on very loud. He asked the officers who were in the hallway to turn off his television. PO Maisano, PO Washington, and PO Nazario were all in the hallway when this request was made. § 87(2)(b) had his keys. PO Thompson did not recall how the officers gained entry into the apartment. He believed § 87(2)(b) had keys and he requested the officers to enter. PO Thompson stated that the officers entered the apartment because of § 87(2)(b)'s request. PO Nazario and PO Washington were in the apartment for approximately three minutes. The television was turned off. PO Thompson remained in the hallway with § 87(2)(b) but PO Thompson did not recall exactly what he was doing. PO Thompson did not recall § 87(2)(b) complaining about what the officers were doing inside his apartment. § 87(2)(b)'s digital camera was not removed from his apartment; none of his property was removed from the apartment. § 87(2)(b) did not complain about officers using his camera to document § 87(2)(b) injuries. PO Thompson stated that § 87(2)(b) had a camera on him at the time he was arrested. The camera was vouched before he was taken to central booking.

PO Kimberly Washington Statement

Memo Book: At 0700hrs, an assault in progress at § 87(2)(b) in Queens. At 0730 hours, sector I handled the incident (encl. 14a-b).

On January 8, 2008, PO Kimberly Washington was interviewed at the Civilian Complaint Review Board (15a-b).

On August 21, 2007, PO Kimberly Washington worked a tour of 2350 X 0750 with her partner PO Michael Nazario. The two officers worked in sector A, C, and D. PO Washington received a radio assignment for an assault at § 87(2)(b) in Queens. When PO Washington arrived at the location, § 87(2)(b) was standing alone in front of the building. § 87(2)(b) was visibly agitated. § 87(2)(b) was upset that the officers had taken too long to respond to his call. § 87(2)(b) spoke loudly and often interrupted when the officers were speaking. PO Washington did not recall § 87(2)(b)'s exact statements. § 87(2)(b) told PO Washington that he was assaulted by his neighbor, § 87(2)(b). PO Washington, PO Nazario, and § 87(2)(b) entered the building and walked to the second floor. PO Washington and PO Nazario went to speak to the woman § 87(2)(b) accused of assaulting him. The two officers entered the woman's apartment, while § 87(2)(b) remained in the hallway with PO Michael Thompson and PO Jason Maisano who had just arrived on the scene. After speaking with § 87(2)(b), who stated that as a result of § 87(2)(b) hitting her, she had a "busted lip," PO Washington determined that § 87(2)(b) would be arrested. PO Washington went back in the hallway. § 87(2)(b) was still agitated. There was a dialogue between § 87(2)(b) and the officers who were in the hallway; however, PO Washington did not remember the discussion.

§ 87(2)(b) was handcuffed, but PO Washington did not recall who applied the handcuffs. When the officers began to escort § 87(2)(b) away, he refused to leave because his apartment door was open and he did not want to be taken to the precinct without his lights and computer turned off and his door being locked. § 87(2)(b) asked the officers to turn off the lights and computer and lock the door. PO Washington and PO Nazario satisfied § 87(2)(b)'s request and entered the apartment. § 87(2)(b) was standing directly outside of the apartment. § 87(2)(b) made no complaints about the officers entering his apartment. PO Washington was in the apartment for five seconds. PO Washington and her partner turned off the lights, and computer and exited the apartment. § 87(2)(b) was able to fully view what the officers were doing. Nothing was taken out of § 87(2)(b)'s apartment. PO Washington did not have § 87(2)(b)'s digital camera, nor did she witness him holding a camera. PO Washington is unaware of any

officers taking photographs of § 87(2)(b) injuries. The officers in sector I transported § 87(2)(b) to the precinct and PO Washington had no further interactions with § 87(2)(b)

Officers Not Interviewed

PO Jason Maisano and additional officers on the scene were not interviewed; § 87(2)(g)

Police Documents

IAB Case File (encl. 1a-j)

The Internal Affairs Bureau also conducted an investigation stemming from this incident regarding allegations of stolen property and a disputed arrest. IAB was unable to reach a conclusive regarding the stolen property allegation, but determined that the officers had probable cause to arrest § 87(2)(b)

Property Voucher

On August 22, 2006, § 87(2)(b) s Sony cyber-shot digital camera and two Duracell batteries were vouchered (encl. 16a)

Sprint Report

On August 22, 2006, at approximately 6:20 a.m., § 87(2)(b) called the police reporting she was assaulted inside of § 87(2)(b) § 87(2)(b) in Queens. A lieutenant and police officers assigned to the 114th Precinct's sectors A, B, and I responded to the complaint. At 7:13 a.m., one individual was taken into custody (encl. 17a-c).

On August 22, 2006, at approximately 6: 22 a.m., § 87(2)(b) reported a dispute between himself and § 87(2)(b) § 87(2)(b) no weapons were involved and no one was injured (encl. 17a-c).

Civilian CCRB History

§ 87(2)(b) has filed two prior complaints; § 87(2)(b)

Subject officer CCRB History

Neither PO Nazario nor PO Washington have prior complaints (encl 2a, 3a).

Conclusions and Recommendations

Disputed/Undisputed Facts

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b). It is undisputed that PO Washington and PO Nazario entered § 87(2)(b) apartment. It is also undisputed that § 87(2)(b) s camera was vouchered.

Credibility Analysis

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b). On September 1, 2006, § 87(2)(b) reported to IAB that officers followed him while he entered his apartment, "looked around" and removed his camera. § 87(2)(g)

§ 87(2)(g) . § 87(2)(b) finally testified that the officers entered his apartment after he requested them to lock his door and shut off his television.

§ 87(2)(b), § 87(2)(g) § 87(2)(b) reported to CCRB that § 87(2)(b) § 87(2)(b) assaulted him without cause, but § 87(2)(b) § 87(2)(b) reported the assault to 911 first. § 87(2)(b) reported to IAB that the subject officers instructed § 87(2)(b) § 87(2)(b) to bite her lip so that he could be arrested, but did not mention this allegation to CCRB. Furthermore, in his CCRB testimony, § 87(2)(b) § 87(2)(b) stated that he did not witness the conversation between the officers and § 87(2)(b) § 87(2)(b) since she was in her apartment. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) Prior to his arrest, § 87(2)(b) expressed to the officers that if his assault complaint was not investigated, he would file a complaint. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) . What is clearly known is that § 87(2)(b) § 87(2)(b) injuries were documented with a Polaroid camera. § 87(2)(b), § 87(2)(g) The property voucher reflected that § 87(2)(b) § 87(2)(b) s digital camera was properly vouchered for safe keeping. § 87(2)(g)

Allegation A: PO Michael Nazario entered and searched § 87(2)(b) § 87(2)(b) in Queens.

Allegation B: PO Kimberly Washington entered and searched § 87(2)(b) § 87(2)(b) in Queens.

Allegation C: PO Kimberly Washington seized § 87(2)(b) § 87(2)(b) s property.

§ 87(2)(b), § 87(2)(g) § 87(2)(b) § 87(2)(b) testified that her injuries were documented with a Polaroid camera. § 87(2)(b) § 87(2)(b) s digital camera was properly vouchered. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: